

Message Text

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ORIGIN DLOS-04

INFO OCT-01 EUR-12 IO-11 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07

EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01 FEA-01

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DRAFTED BY D/LOS: RTULL L/OES: BHOXMAN

APPROVED BY AMB. LEARSON

EUR/CE: KORNBLUM

EUR/EE: MOSHER

EUR/EE: MILLER

EUR/EE: DEAL

EUR/SOV: KOLBERT

EUR/EE: BROWN

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FM SECSTATE WASHDC

TO AMEMBASSY LONDON IMMEDIATE

AMEMBASSY BELGRADE IMMEDIATE

AMEMBASSY BERLIN IMMEDIATE

AMEMBASSY BUDAPEST IMMEDIATE

AMEMBASSY MOSCOW IMMEDIATE

AMEMBASSY PRAGUE IMMEDIATE

AMEMBASSY SOFIA IMMEDIATE

AMEMBASSY WARSAW IMMEDIATE

USMISSION USUN NEW YORK IMMEDIATE

INFO AMEMBASSY BONN IMMEDIATE

USMISSION USBERLIN IMMEDIATE

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E.O. 11652: GDS

TAGS: P/LOS

SUBJECT: LOS SOCIALIST DEP FORMINS MEETING

REF: (A) BUCHAREST 697

SUMMARY. EMBASSIES ARE REQUESTED TO APPROACH HOST GOVERNMENTS BEFORE END OF WEEK ON LOS. END SUMMARY.

1. REFTEL REPORTS SOCIALIST COUNTRY DEPUTY FOREIGN MINISTERS MEETING TENTATIVELY SCHEDULED FOR WARSAW EARLY IN WEEK OF FEBRUARY ,6 TO DISCUSS LAW OF THE SEA PROBLEMS. EMBASSIES ARE REQUESTED TO APPROACH HOST GOVERNMENTS (APPROPRIATE DEPT'Y FOREIGN MINISTERS IF POSSIBLE) AND MAKE POINTS SET OUT IN PARAGRAPHS WHICH FOLLOW BEFORE END OF WEEK. ALTHOUGH SUBSTANTIVE LOS ISSUES ARE OF COURSE OF GREAT IMPORTANCE TO US, WE FEEL THAT ISSUE OF COMPULSORY SETTLEMENT OF DISPUTES SHOULD BE SINGLED OUT AT THIS TIME, SINCE US AND EASTERN EUROPEAN STATES ARE FURTHEST APART ON THIS ISSUE. WE WOULD PARTICULARLY APPRECIATE IT IF AMEMBASSY MOSCOW WERE ABLE TO APPROACH DEPUTY FOREIGN MINISTER KOZYREV HIMSELF.

2. WE ARE AWARE OF TRADITIONAL EASTERN EUROPEAN OPPOSITION TO DISPUTE SETTLEMENT PROCEDURES. WE ARE PLEASED, HOWEVER,

TO SEE THAT SOME SOCIALIST STATES HAVE ENDORSED DISPUTE SETTLEMENT IN AREAS OF FISHERIES, POLLUTION, AND SCIENTIFIC RESEARCH, AS WELL AS THE DEEP SEABEDS. THIS IS NOT ENOUGH TO ADEQUATELY PROTECT NAVIGATION AND OTHER MARITIME INTERESTS FROM ABUSE OF COASTAL STATE POWERS, MANDATORY THIRD-PARTY DISPUTE SETTLEMENT MUST BE APPLICABLE TO ALL ASPECTS OF THE LOS CONVENTION, SUBJECT TO APPROPRIATE EXCEPTIONS (LISTED IN ARTICLE 18 OF PART IV OF SINGLE NEGOTIATING TEXT). WE REMAIN FLEXIBLE ON THE QUESTION OF PROCEDURES, BUT WE BELIEVE THERE MUST BE COMPREHENSIVE COMPULSORY THIRD -PARTY DISPUTE SETTLEMENT.

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3. AT THE JANUARY 15-16 NEW YORK MEETING ON DISPUTE SETTLEMENT, CERTAIN HARDLINE LATIN AMERICAN TERRITORIALISTS SERVED NOTICE THAT THEY WILL RAISE THE QUESTION OF THE CONFERENCE PRESIDENT'S AUTHORITY TO ISSUE PART IV (SETTLEMENT OF DISPUTES). WE BELIEVE THAT ANY SUCH ATTACK IS MERELY A PRELUDE TO A BROADER ATTACK ON THE APPLICABILITY OF DISPUTE SETTLEMENT IN THE ECONOMIC ZONE.

WE SEE IT AS A PART OF THEIR EFFORT TO MAKE THE ECONOMIC ZONE THE FUNCTIONAL EQUIVALENT OF A TERRITORIAL SEA, WHICH IS NOT IN THE BEST INTERESTS OF MARITIME COUNTRIES.

4. THE NEW LOS CONVENTION WILL GIVE COASTAL STATES VERY BROAD RIGHTS. THE INTERESTS OF MARITIME COUNTRIES CAN ONLY BE ADEQUATELY PROTECTED IF COASTAL STATES ARE NOT TEMPTED TO ABUSE THESE RIGHTS AND IF THEY RESPECT THEIR DUTIES UNDER THE TREATY. THUS, COMPULSORY DISPUTE SETTLEMENT IS AN ESSENTIAL RESTRAINT ON COASTAL STATE ARBITRARY ACTIONS. MOREOVER, WE BELIEVE THAT THE MAJORITY OF COASTAL STATES IN THE CONFERENCE WILL HAVE DIFFICULTY ACCEPTING COMPULSORY DISPUTE SETTLEMENT FOR FISHERIES UNLESS DISPUTE SETTLEMENT PROCEDURES ARE APPLICABLE TO ALL PARTS OF THE CONVENTION, INCLUDING NAVIGATION. FOR THESE REASONS, WE ARE HOPEFUL THAT HOST GOVERNMENTS WILL BE ABLE TO JOIN US IN OPPOSING THE LATIN EFFORT BY ENDORSING THE CONCEPT OF APPROPRIATE COMPREHENSIVE AND BINDING THIRD-PARTY DISPUTE SETTLEMENT PROCEDURES FOR THE LOS TREATY.

5. FOR LONDON AND SOFIA: WE ARE NOT CERTAIN IF AMBASSADOR YANKOV IS IN LONDON OR SOFIA. PLEASE PASS ABOVE MESSAGE TO HIM⁹

6. FOR BELGRADE: YUGOSLAVIA PARTICIPATED IN INFORMAL DISPUTE SETTLEMENT WORKING GROUP IN GENEVA. PLEASE EXPRESS OUR HOPE THAT IT WILL CONTINUE TO BE REPRESENTED IN GROUP'S DELIBERATIONS.

7. FOR BUDAPEST AND PRAGUE: EMBASSIES SHOULD MAKE ADDITIONAL POINT THAT RIGHTS OF LANDLOCKED COUNTRIES IN LOS TREATY (E.G. ACCESS TO THE SEA AND ACCESS TO
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FISHERIES OF THE ECONOMIC ZONE) WILL ALL DEPEND FOR THEIR IMPLEMENTATION ON GOOD FAITH NEGOTIATION WITH COASTAL STATES. ACCORDINGLY, THE PRACTICAL VALUE OF THE LAND-LOCKED COUNTRY ARTICLES MAY WELL DEPEND TO A GREAT DEGREE ON WHETHER OR NOT THOSE ARTICLES ARE SUBJECT TO BINDING THIRD-PARTY DISPUTE SETTLEMENT.

8. FOR BUCHAREST, MOSCOW AND WARSAW: EMBASSIES SHOULD PLACE GREAT EMPHASIS ON POINT THAT BINDING THIRD-PARTY DISPUTE SETTLEMENT ON FISHERIES IS PROBABLY NOT RPT NOT OBTAINABLE UNLESS IT IS PART OF AN OVERALL BINDING DISPUTE SETTLEMENT SYSTEM THAT INCLUDES ALL ASPECTS OF THE ECONOMIC ZONE, INCLUDING NAVIGATION, EVEN IF DIFFERENT PROCEDURES ARE USED FOR DIFFERENT TYPES OF DISPUTES.

9. FOR BUCHAREST: EMBASSY SHOULD APPROACH APPROPRIATE
FOREIGN MINISTRY OFFICIALS. DELUTY MINISTER GLIGA
CANCELLED MEETING ON LOS. ALTHOUGHT WE WILL TRY TO MAKE
ABOVE POINTS TO GLIGA, WE MAY BE UNABLE TO DO SO PRIOR
TO HIS DEPARTURE FOR WARSAW. KISSINGER

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